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TOLEDO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

01 AUG 35 11 9:11  
TOLEDO

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DAVID PERRY

Plaintiff

- against -

JOHNS MANVILLE CORPORATION

Defendant  
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X  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X

**3:01CV7468**

Civil Action No. G-4801  
CI-200103709 **JUDGE DAVID A. KATZ**

NOTICE OF REMOVAL

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

PLEASE TAKE NOTICE that Petitioner, Johns Manville International, Inc. ("Manville"), files this notice to remove the foregoing action to the United States District Court for the Northern District of Ohio, Western Division. The pertinent facts relating to this action and the grounds for its removal are as follows:

1. On or about July 30, 2001, a civil action entitled David Perry v. Johns Manville Corporation was commenced against Manville in the Court of Common Pleas in Lucas County, Ohio, by filing of a Summons and Complaint. A copy of Summons and Complaint, received by Defendant on August 6, 2001, is annexed hereto as Exhibit A.

2. The above action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1332(a) and is one which may be removed to this Court by

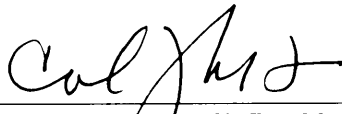
Manville pursuant to the provisions of 28 U.S.C. § 1441 in that it is a civil action founded on a claim arising under the laws of the United States, and also the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

3. Plaintiff David Perry is a citizen of the State of Ohio residing in Lucas County. Defendant Manville is a Delaware Corporation with its principal place of business at 717 17<sup>th</sup> Street, Denver, Colorado 80202.

WHEREFORE, Manville prays that the above-captioned action now pending in the Court of Common Pleas of Lucas County, Ohio be removed therefrom to this Court.

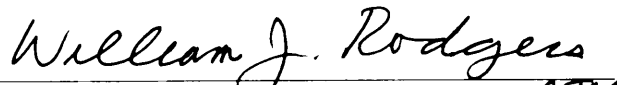
Dated: Washington, D.C.  
August 31, 2001

By



COLIN J. McQUADE, Bar No. 0001343  
The McQuades Company, LPA  
Lincoln at Broadway  
P.O. Box 237  
Swanton, Ohio 43558  
(419) 826-0055

By:



William J. Rodgers (WR-8488)  
Collier Shannon Scott, PLLC  
3050 K Street, N.W., Suite 400  
Washington, DC 20007  
(202) 342-8400

LUCAS COUNTY COMMON PLEAS COURT  
CORNER ADAMS & ERIE STREETS  
TOLEDO, OHIO 43624

SUMMONS  
CIVIL ACTION

JOHNS MANVILLE CORPORATION  
7500 DUTCH RD  
WATERVILLE, OH 43566

G-4801-CI-200103709

JUDGE: JAMES D. JENSEN

You have the right to seek legal counsel. If you cannot afford a lawyer, you may contact the Toledo Legal Aid Society. If you do not qualify for services by the Toledo Legal Aid Society and do not know an attorney you may contact the Toledo Bar Association's Lawyer Referral Service

You have been named as a defendant in a Complaint filed in this Court by the plaintiff named below. A copy of the Complaint is attached to this Summons.

You are hereby summoned and required to serve upon the plaintiff's attorney, or upon the plaintiff, if he has no attorney of record, a copy of an answer to the complaint, within twenty-eight (28) days after you receive this Summons, exclusive of the of the day of service. Your answer must be filed with the Clerk of Court of Common Pleas within three (3) days after the service of a copy of the Answer on the plaintiff's attorney.

If you fail to serve and file your Answer, judgment by default will be rendered against you for the relief demanded in the Complaint.

PLAINTIFF (S)  
DAVID PERRY  
15280 WAPAKONETA RD  
GRAND RAPIDS, OH 43522

ATTORNEY FOR PLAINTIFF(S)  
KOLLIN RICE  
3730 UPTON  
TOLEDO, OH 43613

BERNIE QUILTER  
CLERK OF COURTS

Date: July 31, 2001

By: \_\_\_\_\_

Deputy Clerk

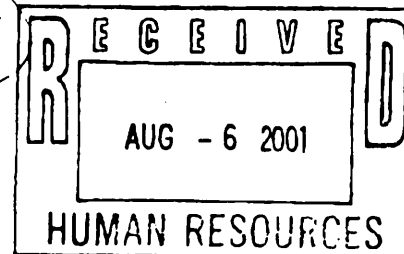


EXHIBIT A

FILED  
LUCAS COUNTY

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

David Perry  
15820 Wapakoneta Rd.  
Grand Rapids, OH 43522

Plaintiff

v.

Johns Manville Corporation  
7500 Dutch Rd.  
Waterville, OH 43566

Defendant.

2001 JUL 30 PM 4: 04

Case No.: CI0200103709

COMMON PLEAS COURT  
JEROME QUILTER  
CLERK OF COURTS

Judge: ASSIGNED TO JUDGE JENSEN

COMPLAINT WITH JURY  
DEMAND ENDORSED HEREON

Kollin L. Rice (0066518)  
3730 Upton Avenue  
Toledo, OH 43613  
419/480-1900  
419/480-1950 fax  
Attorney for Plaintiff

Now comes David Perry, Plaintiff, by and through counsel, and sets forth the following as and for his Complaint against Defendant:

1. The Plaintiff, David Perry, is a natural person and a resident of Wood County, Ohio, and at all relevant times was an employee of Defendant Johns Manville Corporation at 7500 Dutch Rd., Waterville, OH 43566.
2. Defendant Johns Manville Corporation is a corporation with a place of business located at 7500 Dutch Rd., Waterville, Lucas County, OH 43566. The acts or omissions giving rise to this case took place in Lucas County, Ohio.
3. At all times relevant to Complaint, Defendant was amenable to Ohio law and the jurisdiction of this court.
4. This cause of action arises under federal law, specifically plaintiff alleges that Defendant has deprived Plaintiff of personal rights and acted in contravention of the Family Medical Leave Act, the Americans with Disabilities Act and R.C. 4112.02.
5. Plaintiff was terminated from his employment with Defendant on or about May 7, 2000 for the alleged reason of failure to turn in a medical leave extension document.
6. This termination was both in derogation of the FMLA and a pretext for discrimination under the ADA. It also constituted discrimination against disability under O.R.C. § 4112.02.

7. The actions of Defendant to terminate Plaintiff were taken willfully, with knowledge that they were in contravention of the law, and with willful and reckless disregard for the law and the rights of the Plaintiff.
8. Plaintiff filed a timely charge with the Equal Employment Opportunity Commission. Plaintiff received a right-to-sue letter, a copy of which is appended hereto. This suit is brought within 90 days of Plaintiff's receipt of said letter.
9. As a result of Plaintiff's wrongful termination, he was damaged.

WHEREFORE, the Plaintiff demands judgment against defendant as follows:

- 1) For of Plaintiff to be placed into a position comparable to his former position of employment with Defendant Johns Manville, with full seniority and benefits;
- 2) for compensatory damages for lost earnings from the date of his termination, presently estimated at in excess of \$25,000.00;
- 3) for additional damages in excess of \$25,000.00, the amount of damages to be determined by the trier of fact, representing damages for pain, suffering, and humiliation suffered as a result of defendant's conduct;
- 4) for punitive damages in excess of \$25,000.00, the amount of damages to be determined by the trier of fact;
- 5) for costs expended and reasonable attorney fees incurred in prosecuting this action; and
- 6) for such other relief as the Court may find necessary and proper.

Respectfully submitted,

  
Kollin L. Rice

**Jury Demand**

The Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

  
Kollin L. Rice

**Præcipe**

TO THE CLERK: Please serve a copy of the foregoing Complaint together with summons on the Defendant in the above action at the address as set forth in the caption.

Respectfully submitted,



Kollin L. Rice

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: David Perry  
15820 WAPAKONETA RD.  
GRAND RAPIDS, OH 43522

From: E.E.O.C.  
Equal Employment Opportunity Comm.  
1660 W 2nd St, Skylight Tower, #25  
Cleveland, OH 44113-1412

☐ On behalf of a person aggrieved whose identity is (CONFIDENTIAL) (29 C.F.R. 1601.7(a))

Charge Number  
22AA07466

EEOC Representative  
Lawrence E. Lenin

Telephone Number  
(216) 522-7432

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limit required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear at interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that affords full relief for the harm you allege.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state):

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On Behalf of the Commission

  
Michael C. Fetzer, Director

Enclosure(s)

APR 26 2001  
(Date)

cc: Executive Officer  
JOHNS MANVILLE CORPORATION  
7500 B DUTCH RD.  
WATERVILLE, OH 43566